

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

WISCONSIN RESOURCES
PROTECTION COUNCIL, CENTER
FOR BIOLOGICAL DIVERSITY,
AND LAURA GAUGER,

Plaintiffs,

Case No. 11-cv-45

v.

FLAMBEAU MINING COMPANY,
Defendant.

**DEFENDANT, FLAMBEAU MINING COMPANY'S,
MOTION TO DISMISS DUE TO MOOTNESS**

Defendant Flambeau Mining Company ("FMC"), by its attorneys, DeWitt Ross & Stevens S.C., moves the Court to dismiss this action due to mootness. In support of this Motion, FMC states as follows:

1. Plaintiffs have alleged that FMC is violating the Clean Water Act by discharging pollutants from a Biofilter without a permit.
2. Pursuant to an approval and permits issued by WDNR after a hearing in which several Plaintiffs participated, FMC has removed the Biofilter and replaced it with state-of-the-art "infiltration basins."
3. This action was part of a broad "Work Plan" to improve the FMC site and represents the culmination of a multi-year discussion with WDNR that began well before the Notice of Intent was filed in this case.

4. Because Plaintiffs' requested relief is no longer at issue, and because there is no risk that the Biofilter will be "started up again," the Court no longer has jurisdiction. This case should be dismissed.

WHEREFORE, Defendant, FMC, respectfully requests that the Court enter an Order dismissing this matter due to mootness.

Respectfully submitted this 24th day of April, 2012.

DEWITT ROSS & STEVENS S.C.

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